

## **REMARKS**

### **Summary of Office Action**

As an initial matter, Applicants note with appreciation that all claim rejections made in the previous Office Action have been withdrawn.

Claims 21-32 and 43-41 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gott et al., US 2002/0071859 A1 (hereafter "GOTT") in view of Ullmann's Encyclopedia of Industrial Chemistry, 5<sup>th</sup> Completely Revised Edition, Vol. A17, pp. 567-569 (hereafter "ULLMANN").

### **Response to Office Action**

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the following remarks.

Claims 21-32 and 43-41, i.e., all claims of record, are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over a newly cited document, i.e., GOTT, in view of ULLMANN. The rejection essentially asserts that GOTT teaches cosmetic towelette compositions comprising a water insoluble substrate and a fluid cosmetic composition impregnated into the substrate and that the substrate and the cosmetic composition show several of the properties which are recited in the instant claims. The rejection concedes that GOTT fails to teach "the wipe exhibiting a uniform sequence of elevations and indentations, specific formulations such as emulsion or microemulsion, amount ratios and thickness, tear strength, expandibility and the thickness of the fiber". In this

regard, the rejection alleges that GOTT teaches that the towelettes have a different texture and abrasiveness and sufficient abrasivity, sufficient loft and porosity and that “[t]he teaching of the towelette having sufficient loft contemplates the limitation of uniform sequence of elevation and the towelette having abrasiveness and porosity and sufficient abrasivity encompasses the limitation of indentation in the fabric”. Page 5, third paragraph, of present Office Action. Regarding the other elements recited in the instant claims which GOTT fails to disclose, the Examiner appears to take the position that one of ordinary skill in the art would have arrived at these elements by mere routine optimization. The rejection further alleges that ULLMANN teaches the benefits of viscose fiber, wherefore it would allegedly have been obvious to one of ordinary skill in the art “to modify the teaching of Gott et al. to employ viscose fiber in the towelette product in order to achieve the advantages of viscose fiber taught by Ullmann”. Page 6, last paragraph, of present Office Action.

This rejection is respectfully traversed. Specifically, it is pointed out that all of the present independent claims recite, *inter alia*, that the wipe consists of a water-jet impressed nonwoven material and that the wipe exhibits a uniform sequence of elevations and indentations in the nonwoven material. As set forth at page 2, third paragraph of the present application, the structuring of the wipe by means of water jets produces a uniform sequence of elevations and indentations in the nonwoven material which permits, as a result of the elevations, both better access to indentations in the human skin and also increased soil-uptake capacity, leading overall to a significantly improved cleaning performance. At page 1 of the present specification it further is set forth that the known surface-structured wipes are produced by mechanical impression by means of calender rolls, resulting in wipes with low tear resistance, high roughness and high hardness (whereas water-jet impression results in comparatively soft wipes).

Applicants submit that GOTT neither teaches nor suggests that the towelles disclosed therein have a surface structure, let alone a uniform sequence of elevations and indentations in the nonwoven material. Moreover, even if one were to assume, *arguendo*, that one or ordinary skill in the art would be motivated to provide the towelles of GOTT with a surface structure and in particular, a uniform sequence of elevations and indentations, it is not seen that GOTT teaches or suggests that this assumed uniform sequence of elevations and indentations in the nonwoven material is to be produced by using water-jets. In fact, GOTT does not even mention water-jets, let alone for the purpose of providing a nonwoven with a surface structure.

Applicants further note that the Examiner takes the position that the mentioning of "sufficient loft" in GOTT "contemplates the limitation of uniform sequence of elevation" and that the mentioning of "the towelte having abrasiveness and porosity and sufficient abrasivity encompasses the limitation of indentation in the fabric". Applicants point out that the Examiner has not offered any explanation in this regard, let alone provided any written (or other) evidence which would support these allegations. In this regard, it is noted that it is not seen why a "sufficient loft" allegedly "contemplates" a "sequence of elevations", let alone a uniform sequence of elevations. It also is not seen why a "sufficient abrasivity" is related to indentations in the fabric and not to, e.g., the nature (hardness) of the fibers from which the fabric is made and the structure of the fabric (e.g., woven, nonwoven, etc.).

Applicants also note that what is actually stated in paragraph [0047] of GOTT in this regard is (emphasis added):

Another important feature of the present invention is that of a substrate which is a water insoluble substance. By "water insoluble" is meant the substrate does not dissolve in or readily break apart upon immersion in water. A wide variety of materials can be used as the substrate. The following nonlimiting characteristics may be desirable: (I) sufficient wet strength for use,

- (ii) sufficient abrasivity, (iii) sufficient loft and porosity, (iv) sufficient thickness, (v) appropriate size, and (vi) non-reactive with components of the impregnating composition.

Accordingly, the characteristics of the towelletes of GOTT on which the present rejection is based are mentioned in this document only as optional. Also, there is no indication in GOTT that all of these characteristics have to be present at the same time.

Applicants further point out that the question here is not whether one of ordinary skill in the art could have provided the towelletes of GOTT with a (water-jet impressed) uniform sequence of elevations and indentations in a nonwoven material but whether he or she would have had any apparent reason (motivation) to do so.

It further is submitted that even if one were to assume, *arguendo*, that one of ordinary skill in the art would be motivated to provide the nonwoven towelletes of GOTT with a (water-jet impressed) uniform sequence of elevations and indentations, it is not seen that GOTT and/or ULLMANN teach or suggest several of the other elements which are recited in the instant claims.

For example, present claim 22 recites, *inter alia*, that the impregnation liquid has a water content of less than 0.5 % by weight. ULLMANN does not contain any disclosure in this regard at all. GOTT on the other hand, teaches in paragraph [0020] thereof that the cosmetic composition disclosed therein has a water content of “from about 80 to about 99%, preferably from about 85 to about 95%, optimally from about 90 to about 95% by weight”. See also the Examples of GOTT. This clearly does not render it obvious to provide an impregnation liquid with a water content of less than 0.5 % by weight but on the contrary, teaches away therefrom.

Further, present claim 23 recites, *inter alia*, that the impregnation liquid is alcohol-based.

Clearly, a composition which is to comprise at least about 80 % by weight of water cannot be alcohol-based, wherefore GOTT teaches away from claim 23 as well.

Present claim 24 recites that the impregnation liquid is free of oil. GOTT does not appear to provide any specific information in this regard, but clearly fails to teach that the composition disclosed therein should be free of oil. In fact, with one exception (Example 2) all of the compositions of the Examples of GOTT (Examples 1 and 3-8) contain oil (dimethicone). In view thereof, GOTT teaches away from, or at least fails to render obvious the subject matter of claim 24 as well.

Present claims 34 and 35 recite that the nonwoven material is from 5 % to 50 % (10 % to 25 %) thicker than an identical nonwoven material which has not been water-jet impressed. As pointed out above, GOTT does not mention water-jets, let alone water-jet impression. Accordingly, GOTT necessarily fails to render obvious the subject matter of claims 34 and 35 as well.

Applicants submit that the additional elements recited in the remaining claims which are not specifically addressed above are not rendered obvious by GOTT in view of ULLMANN, either. In this regard, the Examiner is particularly reminded of the comments set forth in MPEP, 2144.05 II.:

#### **B. Only Result-Effective Variables Can Be Optimized**

A particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977) (The claimed wastewater treatment device had a tank volume to contractor area of 0.12 gal./sq. ft. The prior art did not recognize that treatment capacity is a function of the tank volume to contractor ratio, and therefore the parameter optimized was not recognized in the art to be a result- effective variable.). See also *In re*

*Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (prior art suggested proportional balancing to achieve desired results in the formation of an alloy).

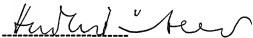
It is not seen that any of the parameters set forth in the present claims is identified as result-effective variable in GOTT and/or ULLMANN.

Applicants submit that for at least all of the foregoing reasons, the Examiner has failed to establish a *prima facie* case of obviousness of the subject matter of any of the present claims with respect to GOTT and ULLMANN. In view thereof, withdrawal of the rejection of claims 21-32 and 43-41 under 35 U.S.C. § 103(a) over GOTT and ULLMANN is warranted and respectfully requested.

#### CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,  
Anja DRUCKS et al.



Neil F. Greenblum  
Reg. No. 28,394

November 9, 2007  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191

Heribert F. Muensterer  
Reg. No. 50,417